

<u>STANDARD OPERATING PROCEDURES</u>	COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT 1515 Arapahoe Street Denver, Colorado 80202-2117 SUBJECT: Pre-Employment and Contractor Security Clearance	Number:	SP-235
		Date:	12/1/01
		Supersedes:	SP-134
		Date:	9/27/95
		Executive Director's Approval:	

I. PURPOSE AND OBJECTIVE:

- A. This procedure applies to "security-sensitive" positions within the Colorado Department of Labor and Employment (CDLE) and to contractors working with the same kind of information access available to agency employees working in "security-sensitive" positions. Generally, "security sensitive positions" are those in which the occupant has independent control over resources or programs that could be compromised without collusion (except for those required in Section II below). The procedure is predicated upon conducting a criminal record background check to ascertain whether or not a prospective employee or contractor's staff has a prior criminal conviction, and whether or not that information affects an individual's suitability for employment or work. The outcome of a criminal record background check may result in a job applicant not being referred for a position or the ineligibility of a contractor's staff to work with agency security sensitive information.
- B. It is the objective of the procedure to furnish Management and The Office of Human Resources with a comprehensive account of facts and findings on which to base a decision concerning an individual's suitability for referral and of a contractor's staff to work with agency information. The requirements for background check compliance for contractor's staff will be made a part of the CDLE contract signed with the vendor.

The procedure will reduce the potential for an individual to obtain employment through fraudulent claims or the omission of derogatory information or for sensitive information to be inappropriately used by a contractor's staff. The procedure will be used to check for possible relevant criminal history and, in special instances, at the request of the CDLE Personnel Administrator, to verify previous employment and educational information provided by the job applicant on the job application. The costs of the background check (currently \$5.50) will be billed to the section having the vacancy.

II. CATEGORIES AND SCOPE:

Based on sensitivity considerations, specifically involving an individual's ability to have program access and program knowledge and the related compromise/loss potentials, the following general job categories have been identified as **requiring** a pre-employment security clearance:

1. Employees engaged in dealing with money or other negotiables in the form of cash, checks, or warrants, etc., (e.g., certain accounting personnel, program warrant processing/handling personnel, collections personnel, etc.);
2. Employees engaged in Information Technology and associated activities, (e.g., computer programmers, computer operators, analysts, certain Labor and Employment Specialists, and certain Compensation Insurance Specialists);
3. Employees involved in performing program monitoring, financial accounting/auditing, and those who approve/deny payments and/or proposals, (e.g., certain Staff Services personnel, internal auditors, certain accounting personnel, certain Environmental Protection Specialists, certain General Professionals, certain Employment Programs personnel, etc.);
4. Inspectors and investigative personnel;
5. Employees engaged in certain human resources activities including payroll functions; and
6. Any employee who has access to a social security number, tax identification, address, and/or other identification information pertaining to another person or business.

III. IDENTIFYING POSITIONS:

- A. Agency positions that are recommended for pre-employment security clearance will be identified in a two-pronged approach. Within the general parameters outlined above, the Appointing Authority will review specific job positions under their control to identify those positions of sensitivity to be recommended for pre-employment security clearance. **Appointing Authorities should consider the extent to which the individual position has independent control over resources or programs, i.e., the extent to which the employee could compromise resources or programs without collusion.** Thereafter, additional reviews will be triggered by the assignment of new duties or the creation of new positions. The Executive Director's office will have final approval of any positions identified and also will have final approval of positions which have not been identified as requiring pre-employment security clearance.

If positions identified as requiring security clearance are occupied, the security clearance procedure will be operative once the positions become vacant.

- B. Appointing Authorities will also identify new contracts that could compromise sensitive information and advise the CDLE Office of Contracts and Procurement of the need to require that contractor to obtain their own security clearance for staff working with agency information. The security clearance should follow the same guidelines as that used for agency employees. The contractor will certify to the CDLE Office of Contracts and Procurement that its staff meets the requirements outlined herein.
- C. Once specific agency job positions have been identified, the Position Description Questionnaire (PDQ) will be revised by the Appointing Authority to include a pre-employment security clearance justification statement to be added under the special requirements section of the PDQ form (see Attachment C for examples).
- D. These recommendations for a pre-employment security clearance incorporated in the agency PDQ will be forwarded by the Appointing Authority to the Office of Human Resources for review.
- E. The Office of Human Resources will ensure that all agency security sensitive positions have been properly identified throughout the Department.
- F. Revised agency PDQ's identifying positions that are recommended for pre-employment security clearance must then be forwarded to the Executive Director's Office for final approval and certification of the security sensitive designation.
- G. Final approved agency PDQ's will be returned to the Office of Human Resources where they will be kept on file for future reference should such a position have to be filled. The requirement of a background check will be considered for the purpose of filling the position from an eligible list created by open competitive or promotional examination, by transfer, by demotion, by temporary appointment, by reappointment or "bumping".

IV. FILLING AGENCY POSITIONS :

- A. When a position identified as security sensitive is to be filled by any method (eligible list, temporary appointment, transfer, demotion, reappointment, "bumping", reinstatement, etc.) the following procedure will be followed:
1. Applicants will be notified in any exam announcement that a criminal record background check will be conducted prior to appointment and that a negative criminal record could disqualify them.
 2. Based on the justification statements contained in the PDQ, the hiring authority/supervisor will indicate in the request to fill a position that the position is security-sensitive.
 3. A copy of the "Authorization To Conduct A Background Check" form (Attachment A) will be obtained from the applicant by the Office of Human Resources (if hiring from a list) or by the hiring authority/supervisor (if not hiring from a list).
 4. If hiring from a list, candidates will be informed that their unwillingness to agree to the criminal record background check would remove them from consideration for this particular position only, and that their names would remain on the list of eligibles. In effect, an applicant's unwillingness to agree to submit to a criminal record background check would only be a limitation of availability for that particular position. The applicant's name would then be bypassed and the next name on the list would be referred with a similar

letter.

5. Those candidates who agree to a criminal record background check would be instructed to mail or bring in the completed "Authorization To Conduct A Background Check" form to the Office of Human Resources for forwarding to ICE in order for the criminal record background check to be conducted.
6. The hiring authority/supervisor will conduct interviews of the job applicants, and, after narrowing the field of candidates to several, the supervisor must notify the Office of Human Resources of the top candidates.
7. The Office of Human Resources will forward the top applicants' signed "authorization forms" to ICE in order for a criminal record check to be conducted.
8. Three workdays should be allowed for return of the processed information from ICE to the Office of Human Resources.
9. Upon return of the processed information, the Office of Human Resources will inform the hiring authority/supervisor of the job applicants who can be considered for the position. A job applicant who is not referred on the basis of a negative criminal record background check will so be informed, and will be given appeal rights if appropriate.

V. RESULTS OF AGENCY BACKGROUND CHECKS:

- A. The results of the criminal record background check will be reported within three workdays as follows:
 - (1) No prior job-related criminal record: The appropriate box will be checked on the "Authorization To Conduct A Background Check" form, signed by the ICE Chief Criminal Investigator and returned to CDLE Human Resources/Personnel.
 - (2) Prior job-related criminal conviction record: The appropriate box will be checked on the "Authorization To Conduct A Background Check" form, signed by the ICE Chief Criminal Investigator and returned to the CDLE Personnel Administrator. Information concerning the criminal convictions identified below will be attached in writing; however, the actual "rap sheet" will not be copied or attached, but will remain a part of ICE records.
- B. ICE will consider the following felony conviction categories occurring within the last five years prior to the date of the job application to be job-related to determine which information is to be released to CDLE Office of Human Resources/Personnel for use in ascertaining job-suitability:

(1) Theft	(6) Embezzlement
(2) Robbery	(7) Computer Crime
(3) Burglary	(8) Other white-collar or government operations crimes
(4) Fraud	(9) Unlawful possession of controlled or dangerous substances
(5) Forgery	(10) Assaultive offenses
	(11) Any offense involving use of a firearm or dangerous weapon

The above definition means that people considered for occupancy of a security sensitive position will not be allowed to occupy that position if they have any of the above felony convictions in the last five years. They can be considered for other agency positions that are not identified as security sensitive.

- C. Records containing all information found will be kept by ICE during the background check. These records, available to the applicant, will be available to authorized persons on a need-to-know basis.

VI. ATTACHMENTS:

- A) Authorization to Conduct A Background Check
- B) Letter to Accompany Referrals
- C) PDQ Canned Statement Examples

VII. NOTICE OF FELONY CONVICTION OR CONVICTION OF OFFENSE OF MORAL TURPITUDE:

Any employee finally convicted of a felony or other offense of moral turpitude shall report said final conviction to the employee's immediate supervisor within seven (7) days from the date of the final conviction. For purposes herein, "final conviction" shall include a no contest or acceptance of a deferred sentence. If the conviction is appealed, it is not final until affirmed by an appellate court. For purposes of determining whether an offense constitutes a crime of moral turpitude, said determination shall be made by the Director of Resources. The Director of Resources shall consult with state Personnel Board Rule R-6-9(5) and (6) (4 CCR 801.)

Failure by an employee to give notice as directed herein shall subject the employee to corrective action or dismissal.

VIII. QUESTIONS:

Any questions and/or concerns in regard to this Standard Procedure should be brought to the attention of the Director of Resources at (303) 318-8002.

THIS POLICY BECOMES EFFECTIVE IMMEDIATELY FOR ALL POSITIONS IDENTIFIED AS "SECURITY-SENSITIVE" AND FILLED SUBSEQUENT TO THE DATE OF THIS STANDARD PROCEDURE, AND FOR NEW CONTRACTS ISSUED SUBSEQUENT TO THE DATE OF THIS STANDARD PROCEDURE.

COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT
INVESTIGATIONS AND CRIMINAL ENFORCEMENT
1515 ARAPAHOE ST., TOWER 3 SUITE 300
DENVER, CO 80202-2117

AUTHORIZATION TO CONDUCT A BACKGROUND CHECK

I hereby authorize the Colorado Department of Labor and Employment to conduct a criminal record background check for the purpose of ascertaining whether or not I have a prior criminal conviction. I understand that the background check is a condition of employment for the position of _____ and that an unsatisfactory background check could lead to my not being considered.

I hereby release the Colorado Department of Labor and Employment and its authorized representatives from any liability or damage connected with conducting the background check and obtaining said criminal record information.

DATE

JOB APPLICANT'S SIGNATURE

DATE OF BIRTH

PRINT FULL FIRST NAME (S)

PRINT FULL MIDDLE NAME (S)

PRINT FULL LAST NAME (S)

*

SOCIAL SECURITY NUMBERS (S)

☐ Male

☐ Female

INSTRUCTIONS TO APPLICANT:

Please mail or bring this completed and signed form to the Colorado Department of Labor and Employment Human Resources/Personnel office located at 1515 Arapahoe St., Tower 2 Suite 700, Denver, Colorado 80202-2117.

RESULTS OF THE BACKGROUND CHECK WILL BE MADE AVAILABLE TO THE APPLICANT UPON WRITTEN REQUEST.

FOR DEPARTMENT USE ONLY:

I request the Investigations and Criminal Enforcement Section to conduct a background check of the applicant whose authorization appears above.

Date

Referring Person's Signature

RESULTS OF BACKGROUND CHECK:

☐ No prior felony convictions within 5 years of the date of completion of CDLE's employment application form.

☐ Prior felony convictions within 5 years of the date of completion of CDLE's employment application form.(see attached explanation)

Date

Chief Criminal Investigator

BILL OWENS
Governor

VICKIE L. ARMSTRONG
Executive Director

JEFFREY M. WELLS
Deputy Executive Director



DEPARTMENT OF LABOR AND EMPLOYMENT
OFFICE OF THE EXECUTIVE DIRECTOR

Two Park Central, Suite 400
1515 Arapahoe Street
Denver, Colorado 80202-2117

LETTER TO ACCOMPANY REFERRALS

Dear Applicant,

Your name is currently on an eligible list for _____ and you are eligible to be referred to a position in the Department for Labor and Employment, which has been identified as having duties which would allow the employee to possibly compromise the security of the programs. Due to the nature of the position in question, it is the responsibility of State Government to protect the assets entrusted to it and we believe that great care must be taken in filling positions which have been identified as security sensitive.

To be considered for this position, you must agree to allow the department to conduct a criminal background check. Attached is an authorization for the department to conduct such a check should you wish to be considered for this opening. We hope you wish to be considered for this vacancy. However, if you choose not to be considered it will not be construed as an indication that you have a criminal record, nor will it result in removal of your name from the eligible list. Not everyone wishes to authorize a potential employer to conduct a background check. We understand this and consider it within your rights.

If you do not want to authorize the department to conduct a criminal records background check your name will be bypassed for this position only, but your name will remain on the eligible list to be referred for the next available opening.

In either case, we are requesting that you contact the person whose name and telephone number is on the Notice of Referral and let them know your decision. Failure to contact the person will result in removal of your name from the eligible list. If you wish to be considered for the position and are willing to authorize the department to conduct the background check, please complete the Authorization Form enclosed and bring or mail it to 1515 Arapahoe Street, Tower 2, Suite 700, Denver, Colorado 80202-2117. Should you have any questions about this please feel free to contact

_____ at _____.

Sincerely,

Personnel Administrator

Attachment C

The most applicable pre-employment security clearance justification statement may be chosen from the following "canned statements".

- (1) "The individual holding this position has the program knowledge necessary to compromise the system due to involvement with:

(State general duties allowing for possible program compromise.)

It is required that the individual holding this position undergo a criminal record background check as a condition of employment."

- (2) "The individual holding this position has the program access necessary to compromise the system due to involvement with:

(State general duties allowing for possible program compromise.)

It is required that the individual holding this position undergo a criminal record background check as a condition of employment."

- (3) "The individual holding this position has both the program knowledge and program access necessary to compromise the system due to involvement with:

(State general duties allowing for possible program compromise.)

It is required that the individual holding this position undergo a criminal record background check as a condition of employment."

- (4) "The individual holding this position not only has the program knowledge and program access necessary to compromise the system but also has the technical knowledge necessary to possibly develop false identities, subvert security systems, and perpetrate criminal acts while avoiding detection. It is required that the individual holding this position undergo a criminal record background check as a condition of employment ."